



PROBATION AND PAROLE BUREAU STANDARD OPERATING PROCEDURES

Procedure No.: P&P 60-12	Subject: REGISTRATION OF SEXUAL AND VIOLENT OFFENDERS	
Reference: DOC 1.1.3 ; DOC 1.5.10 46-18-201, 255(2), MCA ; 46-23-501 through 509, MCA ; 53-1-201, 203, MCA		Page 1 of 7
Effective Date: 10/29/01		Revision Dates: 12/03/01; 06/17/02; 03/06/04; 03/01/05; 08/01/05; 08/20/07; 11/14/08
Signature / Title: /s/ Ron Alsbury		

I. BUREAU DIRECTIVE:

Probation & Parole Bureau employees will enforce the various provisions of the Montana Code Annotated in the release, registration and notification requirements for sexual and violent offenders.

II. DEFINITIONS:

Registration Agency (Agency) – The police department of the city or town in which an offender resides; or the sheriff's office of the county in which an offender resides, if the residence is in a place other than a city or town.

Release from Custody – For the purpose of this policy, means placement of an offender outside of the confines of a state correctional facility on parole, probation, conditional release, intensive supervision, discharge, pre-release, or other community placement status in, or out, of the state of Montana. It also means release from one residential correctional facility to another or to the community.

Sexual Offense – Any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-502 (3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and offender is 18 years of age or older), 45-5-504(2)(c), 45-5-507 (if the victim is under 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(c), or 45-5-625 or any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed above, or for which the offender was required to register as a sexual offender after an adjudication or conviction.

Sexual or Violent Offender – A person who has been convicted of a sexual or violent offense as defined in the Montana Code Annotated.

Violent Offense – Any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c) or (1)(d), 45-5-212, 45-5-213, 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in above.

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III. PROCEDURES:

A. Applicable Offenses and Dates

1. Montana Sexual Offender Registration Applicable Offenses

- 45-5-301 Unlawful Restraint (victim is minor and offender not parent of victim)
- 45-5-302 Kidnapping (victim is minor and offender not parent of victim)
- 45-5-303 Aggravated Kidnapping (victim is minor and offender not parent of victim)
- 45-5-502(3) Sexual Assault (victim less than 16 and offender 3 or more years older)
- 45-5-503 Sexual Intercourse w/out Consent
- 45-5-504(1) Indecent Exposure (1st conviction-victim is minor and offender is adult)
- 45-5-504(2)(c) Indecent Exposure (3rd conviction)
- 45-5-507 Incest (victim is minor and offender 3 or more years older or if victimless than 12 and offender is adult at time of offense)
- 45-5-601(3) Prostitution (victim less than 12 and offender is adult at time of offense)
- 45-5-602(3) Promoting Prostitution (victim less than 12 and offender is adult at time of offense)
- 45-5-603(1)(b) Aggravated Promotion of Prostitution (victim is minor)
- 45-5-603(2)(c) Aggravated Promotion of Prostitution (victim less than 12 and offender is adult at time of offense)
- 45-5-625 Sexual Abuse of Children (Porn)

Applicability dates: Sexual offenders sentenced by a state or federal court in any state on or after July 1, 1989, or who, as a result of a sentence, are under the supervision of a county, state, or federal agency in any state on or after July 1, 1989 are required to register.

A sexual offender is required to register for life. A Level 1 sexual offender may go back to court after 10 years and request that this requirement be removed. A Level II sexual offender may go back to court after 25 years and request that this requirement be removed. Release from probation or parole does not automatically relieve the offender of the duty to register.

2. Montana Violent Offender Registration Applicable Offenses

- 45-5-102 Deliberate Homicide
- 45-5-103 Mitigated Deliberate Homicide
- 45-5-202 Aggravated Assault
- 45-5-206 Partner/Family Member Assault (3rd or subsequent offense)
- 45-5-210(1)(b) Assault on a Peace Officer (reasonable apprehension of serious bodily injury)
- 45-5-210(1)(c) Assault on a Peace Officer (bodily injury with a weapon)
- 45-5-210(1)(d) Assault on a Peace Officer (serious bodily injury)
- 45-5-212 Assault on a Minor
- 45-5-213 Assault With a Weapon
- 45-5-302 Kidnapping (if victim is not a minor)
- 45-5-303 Aggravated Kidnapping (if victim is not a minor)
- 45-5-401 Robbery

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- 45-6-103 Arson
- 45-9-132 Operation of a Clandestine Lab (conviction on/after 10/01/03)

Applicability dates: Violent offenders sentenced by a state or federal court in any state on or after October 1, 1995, or who, as a result of a sentence, are under the supervision of a county, state, or federal agency in any state on or after October 1, 1995 are required to register.

An offender convicted of 45-9-132, MCA, Operation of a Clandestine Lab is required to register if the conviction is on or after October 1, 2003.

A violent offender is required to register for 10 years following the date of conviction or release from a correctional facility, whichever is later. (This does not include community corrections programs like TSCTC, Prerelease, MASC, PASRC, WATCH East, WATCH West, Passages ADT, Connections Corrections, Elkhorn, Nexus, etc.) If the offender is convicted of failing to register or maintain registration or another felony offense during this time, they will be required to register for life. Offenders who were on the Department of Justice's (DOJ) Violent Offender Registry prior to October 1, 2005, will no longer be required to register after 10 years. Any offender who is on the Registry after October 1, 2005, will not be relieved of the duty to register until a petition is filed with the sentencing court and an order is granted by the court relieving the offender of registration. Being released from probation or parole does not automatically relieve the offender of the duty to register.

3. **Crimes of Conspiracy, Attempt or Accountability:** Offenders who are found guilty of the crimes of solicitation, conspiracy, attempt or accountability of one of the qualifying sexual or violent offenses are required to register as a sexual or violent offender. (Solicitation 45-4-101, MCA; Conspiracy 45-4-102, MCA; Attempt 45-4-103, MCA). The definitions of "sexual offense" and "violent offense" include the crimes of attempt, solicitation and conspiracy (46-23-502 (9) and (13), MCA). The Attorney Generals Office considers accountability (45-2-301, 302, MCA) an offense for which registration is required.
4. **Court Ordered Registration:** An offender that is court ordered to register as a sexual or violent offender must register regardless of the conviction offense. Example: Stalking, intimidation, criminal endangerment, etc.
5. **Deferred Sentences:** When an offender has served his deferred sentence, the offender does not automatically get removed from the Sexual/Violent Offender Registry (SVOR). The DOJ requires a dismissal order before the offender will be removed.
6. **Mandated Continuous Satellite-Based Monitoring for Level 3 Sex Offenders:** If a sexual offender committed their offense on or after July 1, 2005 and is designated as a Level 3 sexual offender by the court, the sentencing judge shall, as a condition of probation, parole, conditional release, or deferment or suspension of sentence, require the offender to participate in the program for the continuous satellite-based monitoring of sexual offenders pursuant to 46-23-1011, MCA. Additionally, under 46-23-1031, MCA, the defendant shall pay to the Department of Corrections (Department) a supervisory fee of no more than \$4000 a year.

B. Registration of Adult Sexual and Violent Offenders

1. **Registration of persons in the physical custody of the Department (MSP, MWP, TSCTC, ICP, and Regional and Private Prisons)**

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PROCEDURE:

RESPONSIBILITY:

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| a. At least ten (10) days prior to the release of a sexual/violent offender, the Institutional Probation & Parole Officer (IPPO) shall: | IPPO |
| i. Inform the offender in writing of the statutory obligation to register with the appropriate Agency within three (3) business days of arrival in a county by having offender read and sign <i>P&P 60-12(A) Duty to Register Letter</i> . | IPPO |
| ii. Complete the DOJ's SVOR Form and send the original to the DOJ. (DOJ Form Guidelines are available to assist in completing this form.) Copies will be provided to the Agency where the offender intends to reside. | IPPO/Offender |
| <p>The IPPO will provide to DOJ and appropriate Agency the address at which the offender intends to reside, a copy of <i>P&P 60-12(A) Duty to Register Letter</i>, and a photo of the offender and fingerprints unless they are already in possession of DOJ and Agency.</p> | IPPO |
| iii. Prerelease staff will inform each sexual/violent offender to register with, and be fingerprinted by, the local Agency within three (3) business days of arrival at a prerelease center. Offenders failing to register may be prosecuted under Section 46-23-507, MCA, and will be subject to disciplinary action. | Prerelease Staff |
| <p>At least ten (10) days prior to release from the prerelease center program, the Probation & Parole Officer II (POII) or designee will inform the offender in writing using <i>P&P 60-12(A) Duty to Register Letter</i> to re-contact the local Agency in person within three (3) business days to inform officials of the offender's intended address change.</p> | POII/Offender |

2. Registration of persons under community supervision or referral by Probation & Parole (P&P) to a Prerelease Center or Intensive Supervision Program (ISP).

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| a. P&P Officers (Officer) shall verify that each sexual/violent offender remanded to their supervision has complied with the statutory obligation to register with the appropriate Agency within three (3) business days of arrival. The Officer can do this through written documentation, a phone call, or DOJ's SVOR registry on the Internet. This contact will be documented in the offender's chronological history. The Officer must record the intended address of the offender. | P&P Officer |
| b. If the offender has not registered, the Officer will follow the procedures outlined for IPPOs in section 1 above. | P&P Officer |
| c. The offender must register a change in residence, name, student or employment status or transient status with the Agency last | Offender |

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registered with, in person, within three (3) business days. The Agency must be contacted to verify the offender has registered these changes.

P&P Officer

- d. The Officer must notify the DOJ of any change in residence, name, student or employment status or transient by having the offender complete the *SVOR-Change of Information Form* and forwarding a copy to the DOJ or by e-mail at dojsvor@mt.gov. Documentation that this notification was completed should be maintained.

P&P Officer

- e. If an offender fails to register or keep registration current, the Officer will complete *P&P 100-1(A) Report of Violation* pursuant to *P&P 100-1 Report of Violation – Probationer and Parolee*. If the offender is residing in a county other than the one originally sentenced in, the Officer will also contact the county attorney of that county where new criminal charges may be pursued.

P&P Officer

3. Registration of persons moving to Montana on Interstate Compact

- a. Any violation of a law of another state or federal government reasonably equivalent to a violation of a sexual or violent offense in Montana or for which the offender was required to register as a sexual offender after conviction in another state will be required to register as a sexual/violent offender in the state of Montana
- b. The Montana (MT) Interstate Unit will review all interstate applications coming in to the state of Montana to see if the offender meets the registration requirements of a sexual or violent offender. If registration is required, the supervising Officer will be notified so that this requirement is included in the conditions if the offender is accepted.
- c. The Officer will be responsible for having the offender complete this registration upon acceptance.

MT Interstate Unit

MT Interstate Unit

P&P Officer

C. Notification of Level of Risk to Re-Offend of Sexual Offenders

For a sexual offender required to register who has not received a level of risk designation at the time of sentencing:

1. The supervising Officer will identify offenders who are sentenced to community supervision after the effective date of this policy's revision and did not receive a level of risk designation at sentencing. The Officer will submit a request to the appropriate county attorney's office to petition the district court to assign a risk level designation to the offender. The request should include a recommended risk level designation based on the psychosexual evaluation that occurred prior to sentencing.
2. If a tier level assessment exists for a sexual offender who is being released from a state or private correctional facility the Department will provide notice to the DOJ and local Agency of the risk of re-offense. The notice will be prepared by prison treatment staff and will indicate the level of risk posed by the sexual offender in accordance with the following:

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- a. Level 1 – the risk of a repeat sexual offense is low;
- b. Level 2 – the risk of a repeat sexual offense is moderate; or
- c. Level 3 – the risk of a repeat sexual offense is high.

If a tier level assessment is not included in a sexual offender's file, the Department will notify the DOJ and local Agency that a tier level designation was not given by the sentencing court and that no such assessment is on file with the Department.

D. Dissemination of Information to the Public

The Montana DOJ maintains the SVOR and information contained on the registry must be disseminated according to Section 46-23-508, MCA.

E. Sexual/Violent Offender Requirements

1. The offender is required to provide the Montana DOJ a set of fingerprints and current photograph, when necessary, in order to keep registration current.
2. The offender must register with the local Agency within three (3) business days of entering a county of Montana if:
 - a. the offender was sentenced for a sexual or violent offense in another state and will reside in Montana for a period of ten (10) days or more,
 - b. the offender returns to Montana after residing out of state; or
 - c. the offender temporarily works or attends school in Montana for a period of ten (10) days or more.
3. If the offender regularly resides in more than one county, they are required to register with the appropriate Agency of each county or city or town.
4. If the offender lacks a residence and is a transient offender, they must register within three (3) business days of entering a county of Montana and must report monthly, in person, to the Agency in the county where they are living.
5. The offender must appear in person at the Agency last registered with and give notice within three (3) business days of changing name, residence, employment, or student or transient status. A Post Office box is not sufficient unless a street address is also provided. If the offender does not have a street address they must register as a transient and provide a description of the physical locations where they stay.
6. The offender will receive a verification letter in the mail from the Montana DOJ once a year, every 180 days if the offender was designated a Level 2 sexual offender or every 90 days if the offender was designated a Level 3 sex offender. The offender will have ten (10) days to return the letter to the Agency after signing it before a notary public. If the offender is a registered sexual offender, they must return the offender verification letter in person to the local Agency with which they last registered. At that time a current photograph will be taken. If the offender has not received an offender verification letter a year from now [or 180 or 90 days from now], the offender should call (406) 444-2497.
7. Before the offender moves to another state, they must inform the last Agency registered with in person of the move to keep their Montana registration file current. They must register in the new

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state within the time frame required by the new state. If the offender moves back to Montana, registration is required within three (3) business days.

8. Failure to register or keep registration current and accurate, may result in conviction of a separate felony offense and a sentence to prison for up to five (5) years, a fine of \$10,000, or both.
9. The offender must pay for costs associated with registration and will be notified of the costs and to what agency they must be paid.
10. If the offender is a sexual offender, they must register in states where they work or attend school.
11. If the offender was convicted of a felony offense in Montana, they must submit a DNA sample as required by 44-6-103, MCA.

IV. CLOSING:

Questions concerning this procedure shall be directed to the Regional Administrator or Designee or Department Legal Unit.

Forms

P&P 60-12(A)	Duty to Register Letter
SVOR	Change of Information Form
SVOR	Form Guidelines/Department of Justice
SVOR JULY 2001	Department of Justice Sexual/Violent Offender Registration Form